

**VAN HOVEN DECL.  
ISO OPPOSITION TO INTUITIVE'S  
MOTION TO REOPEN DISCOVERY**

**EXHIBIT 4**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE: DA VINCI SURGICAL ROBOT ) Lead Case No.:  
ANTITRUST LITIGATION ) 3:21-cv-03825-VC

THIS DOCUMENT RELATES TO:  
ALL ACTIONS

SURGICAL INSTRUMENT SERVICE ) Case No.  
COMPANY, INC., ) 3:21-CV-03496-VC

Plaintiff,

vs.

INTUITIVE SURGICAL, INC.,

Defendant.

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY  
UNDER THE PROTECTIVE ORDER  
VIRTUAL VIDEOCONFERENCE VIDEO-RECORDED  
DEPOSITION OF DAN JONES

Thursday, November 10, 2022  
Remotely Testifying from Alexandria, Virginia

Stenographically Reported By:

Hanna Kim, CLR, CSR No. 13083

Job No. 5564633

1 UNITED STATES DISTRICT COURT  
 2 NORTHERN DISTRICT OF CALIFORNIA  
 3

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8 SURGICAL INSTRUMENT SERVICE ) Case No.  
 9 COMPANY, INC., ) 3:21-CV-03496-VC  
 )

10 Plaintiff, )  
 )

11 vs. )  
 )

12 INTUITIVE SURGICAL, INC., )  
 )

13 Defendant. )  
 14 )

15 HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY  
 16 UNDER THE PROTECTIVE ORDER, virtual videoconference  
 17 video-recorded deposition of DAN JONES remotely  
 18 testifying from Alexandria, Virginia, on Thursday,  
 19 November 10 beginning at 12:06 p.m., EST, and  
 20 concluding at 2:36 p.m., pursuant to the  
 21 stipulations of counsel thereof, before Hanna Kim,  
 22 CLR, Certified Shorthand Reporter, No. 13083.  
 23  
 24  
 25

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19  
20  
21 Also Present:

22 MICHAEL BARANKOVICH, Videographer

1 object to my question. But you will still need to  
2 answer unless she instructs you not to do so.

3 Do you understand that aspect?

4 A. Yes.

5 Q. Okay. I don't plan on taking too much of  
6 your time today, but if you need a break, let me  
7 know. All I ask is that if there is a question  
8 pending, you please finish your answer before taking  
9 a break.

10 Sounds good?

11 A. Yes.

12 Q. Do you work at Intuitive?

13 (Interruption in audio/video.)

14 THE COURT REPORTER: I'm sorry. Your  
15 audio cut out.

16 BY MR. MAIDA:

17 Q. Do you work at Intuitive?

18 A. Yes.

19 Q. How long have you worked at Intuitive?

20 A. Fourteen and a half years.

21 Q. What's your current position?

22 A. Director of external affairs.

23 Q. How long have you been in that position?

24 A. Twelve years, 13 years.

25 Q. What are your responsibilities in your

1 electronically.)

2 A. I've clicked on it.

3 Q. Okay. And take a look, let me know when  
4 you're ready to discuss this document.

5 A. (Witness reviews document).

6 Okay.

7 Q. What does this document appear to be?

8 A. It is a similar letter to the previous one  
9 we looked at.

10 Q. And -- and this one's to Banner Health?

11 A. Banner Health in Phoenix, Arizona.

12 Q. Are you familiar with Banner Health?

13 A. I think it's a pretty well known hospital  
14 system in the Phoenix area. I don't know if it's  
15 part of a larger organization. I don't know much  
16 about the account.

17 Q. Would -- would it surprise you to hear  
18 that Banner Health has over 40 Intuitive robots?

19 A. No.

20 Q. About how much does an Intuitive system  
21 cost on its initial purchase?

22 A. It can vary anything -- I -- I haven't  
23 looked at the approved price list recently. But I  
24 think we have systems that start around 700,000.  
25 And systems that -- with various options can be

1 around the \$2 million per system level. You --

2 Q. And is --

3 A. -- you can look up an average sales price  
4 in our SEC reports.

5 Q. Is -- is that purchase typically done as a  
6 capital investment by the hospitals?

7 MS. CAHOY: Objection to form. Outside  
8 the scope.

9 THE WITNESS: As -- as opposed to what?  
10 BY MR. VAN HOVEN:

11 Q. As opposed to a -- a monthly rental.

12 MS. CAHOY: Objection to form.

13 THE WITNESS: I think --

14 MS. CAHOY: Outside the scope.

15 THE WITNESS: I think we report quarterly  
16 the number of -- or proportion of our system deals  
17 that are leases or are outright acquisitions,  
18 purchases by the hospital. If you want to -- if you  
19 want to divide the world into the hospital buying it  
20 up front or paying lease agreements, those are the  
21 two main arrangements.

22 BY MR. VAN HOVEN:

23 Q. I'd like to go to the section of your  
24 contract with Intuitive, within the Banner letter.

25 A. Yes.



1 note that the -- am I correct that the sales  
2 agreement and that ULSA are collectively referred to  
3 as "the Agreement" in this letter?

4 A. Yeah, it looks like there should be an  
5 open quote, and there's one missing. But it says,  
6 "Each as amended (collectively, 'the Agreement')."   
7 And there's a footnote on it as well.

8 Oh, okay. That's standard legal. Yes,  
9 the footnote goes further to, I think, imply that  
10 those two are collectively called "the Agreement."

11 Q. And the -- I -- I see that there's a  
12 double collectively, but almost -- the -- so that --  
13 and capital A "Agreement" is referring to the  
14 agreement -- to those two agreements together; is  
15 that right?

16 A. Yes.

17 Q. If we go to the second bullet point, could  
18 you take a look at that and let me know when you're  
19 ready to discuss it.

20 A. Okay.

21 Q. It concludes with a statement that  
22 "Intuitive may terminate the Agreement immediately  
23 upon written notice, and any warranties applicable  
24 to the System will become void."

25 Do you see that?

1 A. Yes.

2 Q. I'd -- I'd like to split that up into kind  
3 of two portions.

4 What do you understand "Intuitive may  
5 terminate the Agreement immediately upon written  
6 notice" to mean?

7 MS. CAHOY: Objection to form. And I  
8 would instruct the witness not to answer to the  
9 extent it would reveal privileged information.

10 THE WITNESS: I'm not a lawyer. I  
11 think -- and so I don't know if there's a -- a  
12 period before the other party to -- to, you know,  
13 dispute, but it -- it's -- I think it says the  
14 arrangement that's established by the agreements  
15 would cease.

16 BY MR. VAN HOVEN:

17 Q. That --

18 A. Are we -- are we asking what terminate  
19 means, or -- I don't --

20 Q. Sure.

21 Yeah, I -- what's it mean to terminate the  
22 agreement?

23 A. I think that it's no longer binding for  
24 the two parties to fulfill their obligations.

25 Q. And so, Intuitive would no longer have to

1 fulfill any of its obligation with respect to  
2 Banner's 40 plus robots?

3 MS. CAHOY: Objection to form. Outside  
4 the scope.

5 THE WITNESS: Again, I don't know if the  
6 agreements cover all 40 or the specific system. I  
7 don't know that case.

8 BY MR. VAN HOVEN:

9 Q. But the termination of the agreement is  
10 with respect to systems; right?

11 A. Systems --

12 MS. CAHOY: Objection to form. Outside  
13 the scope.

14 THE WITNESS: I don't know if it is plural  
15 systems in this case. I don't know if it was one  
16 system or more systems that were being covered by  
17 those agreements.

18 BY MR. VAN HOVEN:

19 Q. Right.

20 So -- but whether it's one or more  
21 systems, the agreement is the agreement is for the  
22 system; right?

23 A. I don't know. I was just saying I didn't  
24 know whether it applied to plural systems.

25 Q. But you do know that the agreement